

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM**  
**MINUTES OF POLICE OFFICERS' MEETING**  
**APRIL 10, 2007**

The regular meeting of the Tucson **Police** Public Safety Personnel Retirement System Board was held on Tuesday, April 10, 2007, in the Fifth Floor Conference Room, 255 W. Alameda, City Hall, Tucson, Arizona. Chair Robert Walkup Called the meeting to order at 9:04 a.m.

**1. ROLL CALL**

**Board Members:**

Present:	Robert Walkup	Chair
	Judith Patrick	Member
	Joe Ladenburg	Member
	Tom Garrison	Member
	Mike Gurr	Member

Staff Present: Elizabeth Martinez – Police and Fire Board Secretary  
David McEvoy - Police and Fire Board Attorney  
Kathy Maish – Executive Assistant Finance Department

**Also Present:** Mike McKendrick - Fire Board Member – Left at 9:25 a.m.  
Roger Tamietti – Fire Board Member – Left at 9:25 a.m.  
Richard Law – Police System Member – Left at 9:10 a.m.  
Larry Lopez – Police System Member  
Sandy Sellars – Police System Member  
Jack Wixon - Police System Member  
Thomas R. Stillwell – Attorney for Mr. Wixon  
Patrick R. McNamara – Witness for Mr. Wixon – 10:39 a.m. to 11:40 a.m.

Mr. Walkup announced that the board would proceed with the Items on the Agenda except for Item 6, which would be heard as the last item of the Police Board Meeting.

**2. POLICE CONSENT AGENDA: ITEMS A – I**

A. MINUTES FOR APPROVAL – 03/13/07

- B. PENSION PAYROLL – Addition of Normal Service Retirement for Robert Martin out of DROP in the amount of \$4,503.29. Addition of Normal Service Retirement for Larry Turner out of DROP in the amount of \$2,293.79.
- C. NORMAL SERVICE RETIREMENT  
Robert Martin – Last day worked 03/30/07 – Pension effective 04/01/07  
Larry Turner – Last day worked 3/22/07 – Pension effective 04/01/07
- D. DEFERRED RETIREMENT OPTION PLAN  
Edward Chavez – Election to participate in the DROP 03/31/07
- E. EXPENDITURE STATEMENT IN THE AMOUNT OF \$200.00 FOR ANNUAL PHYSICAL for Kristina Thacker by Dr. Dennis Thrasher at Sunnyside Medcenter
- F. TRANSFER OF PRIOR SERVICE  
Lawrence Jones – Redemption of 3.5044 years of prior service from Tucson Police to Page Police in the amount of \$7,758.12.
- G. REDEMPTION OF PRIOR SERVICE  
Christopher Duenas – Redemption of 1.002 years of prior Flagstaff Police in the amount of \$27,587.00.  
Katherine Kragnes – Redemption of .334 years of prior Pima County – CORP service in the amount of \$5,515.00.
- H. PRE-EMPLOYMENT PHYSICAL REQUIREMENT  

<u>DOH: 10/19/06</u>	<u>PSPRS: 02/04/07 Class 06-3</u>
George Bravo	Passed Pre-Employment physical
Aron Bronnimann	Passed Pre-Employment physical
Ryan Bruns	Passed Pre-Employment physical
John Carpe	Passed Pre-Employment physical
Alfonso Carranza	Passed Pre-Employment physical
Jason Dragon	Passed Pre-Employment physical
Juan Fernandez	Passed Pre-Employment physical
Henry Fung	Passed Pre-Employment physical
Felicia Gamble	Passed Pre-Employment physical
Henry Gamez	Passed Pre-Employment physical
Michael Gannon	Passed Pre-Employment physical
Jason Garrels	Passed Pre-Employment physical
Lucas Gossett	Passed Pre-Employment physical
Adrian Guevara	Passed Pre-Employment physical
Jordan Hill	Passed Pre-Employment physical
Preston Hould	Passed Pre-Employment physical

Adam Kidd	Passed Pre-Employment physical
Leticia Laplander	Passed Pre-Employment physical
Maria Leon	Passed Pre-Employment physical
Quentin Luce	Passed Pre-Employment physical
Francisco Magos	Passed Pre-Employment physical
Heather Mah	Passed Pre-Employment physical
Daniel Martinez	Passed Pre-Employment physical
Stacy Matson	Passed Pre-Employment physical
Angela McLaughlin	Passed Pre-Employment physical
Angel Montalvo	Passed Pre-Employment physical
Christopher Morin	Passed Pre-Employment physical
Ernest Ortiz	Passed Pre-Employment physical
Patrick Pina	Passed Pre-Employment physical
Vincente Ramirez	Passed Pre-Employment physical
Chriswell Scott	Passed Pre-Employment physical
Raymon Smith	Passed Pre-Employment physical
Joseph Tingley	Passed Pre-Employment physical
Abel Urzua	Passed Pre-Employment physical
Patricia Wagner	Passed Pre-Employment physical
Ysela Welding	Passed Pre-Employment physical
Kevin Zinn	Passed Pre-Employment physical

I. RETAINER FEE OF \$400 PLUS COSTS-DAVID McEVOY, ATTORNEY

**MOTION** by Mr. Garrison, seconded by Mr. Gurr that consent agenda Items A.-I. are adopted as written and the appropriate action taken. Motion **CARRIED** by a roll call vote of 5-0.

**3. FIRE CONSENT AGENDA: ITEMS A – G**

A. MINUTES FOR APPROVAL – 03/13/07

B. PENSION PAYROLL – Addition of Normal Service Retirement for Patrick Benites amount pending. Deletion of Normal Service Retirement for Gus Mazon, in the amount of 2,481.33 due to his death on 03/02/07 and addition of Survivors Pension for Eleanor Mazon in the amount of \$1,985.06.

C. NORMAL SERVICE RETIREMENT

Patrick Benites – Last day worked 03/30/07 – Pension effective 04/01/07

D. SURVIVOR'S PENSION

Eleanor Mazon - Gus died 03/02/07 – Pension effective 04/01/07

E. TRANSFER OF PRIOR SERVICE

William Brooks – Transfer of service 1.051 years from Avra Valley Fire to Tucson Fire in the amount of \$7,500.00

F. REDEMPTION OF PRIOR SERVICE

Pete December – Redemption of service 2.678 years of prior service with Marquette, Michigan Fire Department in the amount of \$32,104.00.

G. RETAINER FEE OF \$400 PLUS COSTS-DAVID McEVOY, ATTORNEY

This is a Fire Board Item no action required by the Police Board.

4. **APPLICATION FOR DISABILITY RETIREMENT EXECUTIVE SESSION**  
**Discussion or consideration of records exempt by law from public inspection A.R.S. 38-431.03[2] and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])**

Police

Richard Law

There was no executive session under this item.

5. **APPLICATION FOR DISABILITY RETIREMENT**  
**Direction regarding Executive Session**

Police

Richard Law

**MOTION** by Mr. Garrison, seconded by Mr. Gurr that based on the medical evidence provided and letter by Dr. Thrasher dated April 4, 2007 the Board approve the application for permanent disability retirement for Mr. Richard Law to be effective upon separation from the Police Department. Motion **CARRIED** by a roll call vote of 5-0.

Mr. Garrison stated that Mr. Richard Law has been an outstanding member of the Police Department and thanked him for his service to the City of Tucson.

Mayor Walkup also thanked him for his service to the City of Tucson.

6. **REQUEST FOR REHEARING ON APPLICATION FOR DISABILITY RETIREMENT EXECUTIVE SESSION** Discussion or consideration of records exempt by law from public inspection A.R.S. 38-431.03[2] and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])

Police – Attachments  
Jack Wixon

(This Item was moved to the last item)

7. **REQUEST FOR REHEARING ON APPLICATION FOR DISABILITY RETIREMENT**  
**Direction regarding Executive Session**

Police  
Jack Wixon

(This Item was moved to the last item)

8. **CONSIDERATION OF RULE 16 – ANNUAL PHYSICAL EXECUTIVE SESSION** Discussion or consideration of records exempt by law from public inspection A.R.S. 38-431.03[2] and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])

Police – Attachments  
Leanne Charlton – Hire date: 10/02/89 Retired: 05/30/05 Last Phy: 04/05/05  
John Grady – Hire date: 11/07/94 Retired: 06/29/00 Last Phy: 06/23/06  
Dennis Kubik – Hire date: 07/06/87 Retired: 06/29/05 Last Phy: 05/15/05  
Erika (Keys) Rapp – Hire date: 11/14/88 Retired: 04/29/99 Last Phy: 05/05/06

(There was no executive session under this item)

9. **CONSIDERATION OF RULE 16 – ANNUAL PHYSICAL**  
**Board Direction Regarding Executive Session**

Police

Leanne Charlton  
John Grady  
Dennis Kubik  
Erika (Keys) Rapp

**MOTION** by Mr. Garrison, seconded by Mr. Gurr in keeping with board policy to waive the physical requirement every other year that Ms. Charlton and Mr. Kubik are requested to take a physical with the Board Physician, Dr. Dennis Thrasher and Mr. Grady and Ms. (Keys) Rapp requirement for a physical be waived for this year and re-evaluated next year. Motion **CARRIED** unanimously.

## 10. ELECTION

Police – Attachment

It was noted that Mr. Garrison will be retiring at the end of October 2007 and the board will need to run an election to replace Mr. Garrison's position on the Board from November 2007 through June 2008.

Ms. Martinez asked for the board to give their permission to run the election and to expend the funds necessary to run the election.

**MOTION BY** Ms. Patrick, seconded by Mr. Gurr to hold and expend the funds needed to conduct a mail ballot election to include hiring help if necessary. Motion **CARRIED** by a roll call vote of 5-0.

## 11. LEGISLATION

Police and Fire – Attachment

The board members reviewed the current legislation.

Ms. Martinez stated that there have been rumors that the DROP will be ending, which is not true, If the legislature was to make any changes to the Deferred Retirement Option plan it can only be taken away from newly hired public safety employees not those that are already employed by the Police and Fire Departments.

Chair Walkup asked if there were any further comments.

## 12. 2007 LOCAL BOARD SEMINAR

### Police and Fire - Update

The board members discussed the local board seminar put on by the Public Safety Personnel Retirement System in Tucson at the Convention Center.

Mr. Tamietti, fire board member, stated that the seminar was very informative and was pleased to have it at the convention center.

Mr. Garrison, police board member, also said that it was convenient and informative.

Mr. Ladenburg, police and fire board member, stated he also found it informative.

It was **DETERMINED** by the Board that a thank you letter be sent to Public Safety Personnel retirement system from the local board for having the local board seminar in Tucson.

## 13. FUND INFORMATIONAL ITEM

### Police & Fire

#### Board Staff

The board members reviewed an email that was sent to the Board Office from the Human Resources Department.

Ms. Martinez stated she requested a copy of the Job description questionnaire from Human Resources and received an email response that stated, "H.R. is not processing any reclassifications pending further study by Jim Cameron, Finance Director". Ms. Martinez asked if the board could write a memo supporting the reclassification of Board Staff.

Mr. McKendrick asked Mr. Ladenburg why it was on hold.

Mr. Ladenburg stated that he spoke with Mr. Cameron and the survey was on hold because there are some reorganization possibilities in the works regarding Human Resources and Finance. It will be put on hold until those determinations are made. He said, to that end, if the Board has any preference or suggestions where that support

should reside, he felt that kind of communication with the finance director would be good. Whether or not that will have any impact on how the reorganization ends up. He said some of the functions as far as retirement and employee benefits might be moved to Human Resources from the Finance Department. Ms. Martinez provides support and her position is considered a retirement function. Whether that would go to Human Resources is the question. Whether the board has any preference or recommendations. This is the reason why the positions are on hold, it is pending this reorganization.

Mr. Walkup asked the board how they felt about moving their office and said that to his knowledge moving the office was not under consideration.

Mr. Ladenburg stated that to his knowledge, the current consideration was Tucson Supplemental Retirement System (TSRS) and Employee Benefits beyond that he was not sure, but if the board has any desire to let the director know.

Ms. Patrick stated that the reclassification issue was going on three years ago and she thought it was resolved.

Mr. Garrison said that staff needs to be where she and the members feel comfortable and accessible. The issue at TPD was that members were not comfortable going over there. He knows that Mr. Ladenburg provides the best support that he can.

Mr. Garrison further stated that he does not care what staff is called, he wants her to be paid according to her responsibilities and felt that Human Resources has given the Board the run around. He felt it needs to be finalized and should not be this big of an issue.

Chair Walkup stated that there were two different issues location and compensation. He asked how the board felt about the current location.

Mr. McKendrick said the short answer was yes, he felt the support that staff is getting from finance is as good as it has been in a long time. Unless Human Resources says that they can do it better, he did not want to give up the checks and balances.

Chair Walkup stated that the board will publish a memorandum to the City Manager that the boards' are comfortable with the current location of the Board Office. And a second memorandum to ask that Human Resources do a fair and just evaluation of the relative position. He said that the board needed something from Human Resources explaining that they have done the evaluation and how it was evaluated.

Mr. Tamietti said that he did not understand why this was happening, every few years a position should be re-evaluated. He felt that the public safety membership was being served and served well.



**RECESS:** 9:26 a.m. – 9:40 a.m.

Mr. McEvoy, Board Attorney announced that this was the time (9:40 a.m.) to begin the Rehearing for Mr. Jack Wixon on his Permanent Accidental Disability Application. He further stated that the board would reserve the right to go into executive session after the testimony was heard.

**6. REQUEST FOR REHEARING ON APPLICATION FOR DISABILITY RETIREMENT EXECUTIVE SESSION Discussion or consideration of records exempt by law from public inspection A.R.S. 38-431.03[2] and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])**

Executive session for this item was handled under item 7.

**7. REQUEST FOR REHEARING ON APPLICATION FOR DISABILITY RETIREMENT  
Direction regarding Executive Session**

Police

Jack Wixon

Mr. McEvoy stated that at this time (9:40 a.m.) the rehearing for Mr. Wixon would begin. He suggested that the Board listen to the evidence before they go into executive session. He introduced the witnesses; Mr. Wixon, and Mr. Stillwell, attorney representing Mr. Wixon and Mr. McNamara would be coming a little later at approximately 10:00 a.m.

Mr. McEvoy said that the way a rehearing had been done in the past was to have the petitioner present their case and in that regard Mr. Stillwell will make a brief opening statement. Mr. Wixon will testify next and the Board will be able to ask questions after that. It may seem like a trial with examination and cross examination. And then the Mr. Stillwell can make his closing statement and then the Board can go into executive session if it chooses, and then make a decision.

Mr. Walkup called the hearing to order.

Mr. Thomas Stillwell stated that he was representing Mr. Wixon on his rehearing before the board. He said that Mr. Wixon's claim was valid just on its merits and on the basis of the preponderance of the evidence and that is the standard by which the Board should use when deciding on a disability.

He stated that he reviewed the meeting minutes and felt that the board was utilized executive session; he did not believe that the board is permitted to discuss the merits of a claim in executive session. He felt that it is only to discuss legal issues with council or discuss documents that are protected and cannot be discussed in open meeting, because Mr. Wixon signed a waiver against any such records allowing you to discuss them in open session. The only reason that the board, in his opinion should go into executive session is to get legal advice and not to discuss the merits of the case.

The third issue is that Mr. Wixon's claim of injury has been established as a matter of law in a case to which Tucson was a party in his industrial case. There was a hearing at the industrial commission and it has been established that his injury was related to an industrial injury.

The forth point was regarding Mr. Gurr, he objected to the report that he wrote to the board regarding the contact with the Doctor, the reason he objects to it is the board has the authority to appoint a medical board to do that kind of thing. If there is a conflict then the board can vote on how the conflict is resolved. So, what the board has is a memo that conflicts with two orthopedic surgeons who have been accepted by the City of Tucson in another case. Then the board is supposed to vote on who they believe is right, and I know that Mr. Gurr believes that he is right but he can't possibly ask you as a board to give a fair hearing and decide between his memo and those two doctors' opinions. He felt that Mr. Gurr should recuse himself from the vote on this application. He stated that the board did not have a signed release from Mr. Wixon to discuss protected medical information with an attending medical physician. There were two signed releases in his possession one to gather documents and the other to hear the case in open meeting medical information that would otherwise be confidential; he felt that neither of those authorizes a discussion with a doctor such as what occurred in Mr. Gurr's memo.

Board attorney, David McEvoy, swore in Mr. Wixon he introduced himself and testified. Mr. Stillwell asked Mr. Wixon questions pertaining to his injury and on his evidence; the Board Members and Attorney questioned him.

Mr. McNamara was sworn in, introduced himself and testified. Mr. Stillwell asked Mr. McNamara questions on Mr. Wixon's industrial claim and how industrial claims are processed. The Board attorney and members also asked Mr. McNamara questions.

**MOTION** by Mr. Garrison, seconded by Ms. Patrick., that the police board go into executive session.

Tucson **Police** Public Safety Personnel Retirement System Board

April 10, 2006 – 11: 25 A.M. to 11:45 A.M.

Finance Department Conference Room, 5<sup>th</sup> Floor of City Hall, 255 W. Alameda

The Board members were instructed on the confidentiality requirements.

Board Members

Present:	Robert Walkup	Chair
	Judith Patrick	Member
	Joe Ladenburg	Member
	Tom Garrison	Member
Absent/Excused:	Mike Gurr	Member
Also Present:	David McEvoy - Police and Fire Board Attorney	
	Elizabeth Martinez – Police and Fire Board Secretary	
	Kathy Maish – Finance Executive Assistant	

It was noted that Executive session Item, #6. Request For Rehearing On Application For Disability Retirement Application was discussed under executive session.

**MOTION** by Ms. Patrick, seconded by Mr. Garrison that the police board come out of executive session and go back to Regular session. Motion **CARRIED** Unanimously.

Mr. Wixon testified again regarding his injury and the events that had occurred. The Board attorney and members questioned Mr. Wixon.

Mr. Stillwell made his closing remarks.

**MOTION** by Mr. Garrison, seconded by Ms. Patrick that based on the medical evidence provided by Mr. Wixon to **DENY** the rehearing of the application for permanent accidental disability.

After some discussion, second **WITHDRAWN** by Ms. Patrick.

**MOTION** by Mr. Ladenburg, seconded by Mr. Walkup that based on the evidence provided Mr. Wixon make an appointment to see the Board Physician for independent medical evaluation. Motion **CARRIED** by a roll call vote of 3-1. (Mr. Garrison voting no and Mr. Gurr recused himself.)

**14. ADJOURNMENT 12:25 a.m.**

**MOTION** by Mr. Garrison, seconded by Mr. Walkup to Adjourn. Motion  
**CARRIED** unanimously

The next regular meeting of the Tucson Police and Fire Public Safety Personnel Retirement System Boards is scheduled for **9:00 A.M.** on Tuesday, May 8, 2007, in the Finance Department Conference Room, 5th floor, City Hall, 255 W. Alameda, Tucson, AZ.

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**Elizabeth Martinez, Board Secretary**

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**Robert Walkup, Chair**

**VERBATIM TAPE RECORD ON FILE IN THE TUCSON POLICE AND FIRE  
PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM BOARDS' OFFICE  
LOCATED AT CITY HALL, FINANCE DEPARTMENT, 1ST FLOOR WEST,  
255 W. ALAMEDA, TUCSON, ARIZONA - AVAILABLE UPON REQUEST.**